

THAW INSANE; IN MATTEAWAN

He Is Found Not Guilty of Murdering White Because He Was Crazy.

SENT AT ONCE TO ASYLUM

Jury Deliberated 25 Hours and at First Stood 8 to 4 for Acquittal.

NO WRIT FOR RELEASE YET

Prisoner Loudly Protests, However, That He Is Sane Now—Littleton Says Verdict Was Fair.

After deliberating twenty-five hours the jury which tried Harry Kendall Thaw for the second time for the murder of Stanford White on Madison Square Roof Garden on the night of June 25, 1906, returned to the courtroom at 12:40 o'clock yesterday with a verdict acquitting the prisoner of the crime on the ground that he was insane when he shot White.

This was the verdict:

"We, the jury, find the defendant not guilty of the charge in the indictment on the ground that he was insane at the time of the commission of the act."

Supreme Court Justice Dowling at once ordered the prisoner to the State Asylum for the Criminal Insane at Matteawan, and Thaw was taken there, leaving the Tombs a few minutes before 4 o'clock in charge of Deputy Sheriff Bell. He was taken to Grand Central Station in Evelyn Nesbit Thaw's electric brougham, his wife accompanying him. Lawyers Daniel O'Reilly and Peabody followed in another vehicle. Mrs. Thaw said good-bye to her husband at the station, and saw him, accompanied by the two lawyers and the guard, depart for the asylum.

Just before he boarded the train Thaw dictated this statement:

"I am perfectly sane now, but I am going to Matteawan on the advice of my counsel, who thought it unwise to sue for a writ of habeas corpus at this time. Counsel will proceed in the matter of my release as soon as they can get together the proofs they will present that I am at present sane. I am confident that my stay at Matteawan will be for a short period of time only."

He arrived at the asylum at 10 o'clock last night and was put in the observation ward for the present. His number is 719. In the asylum he will not be required to wear any uniform.

Justice Dowling had allowed counsel for the defense until 3 o'clock yesterday afternoon to confer with Thaw pending the beginning of his journey to Matteawan. In that time it was decided that no fight should be made for the present to keep Thaw out of the asylum.

Order of Commitment.

Justice Dowling's formal order of commitment said:

To the Sheriff of the County of New York:

The defendant on his trial on said indictment having been acquitted by the jury on the grounds of insanity, and the court being certified of the fact, and the defendant being in custody, and the court deeming his discharge at this time detrimental to the public safety, it is ordered that said Harry K. Thaw be detained in safe custody and be sent to Matteawan State Hospital, and to be kept there in said hospital till then discharged in due course of law. It is further ordered that the Sheriff of New York forthwith convey said Harry K. Thaw to said hospital.

VICTOR J. DOWLING, Justice.

Thaw staggered to his feet when he heard the verdict. There was in his mind the conviction that Littleton, whose eloquence and constructive power in the defense had brought about this verdict, would save him from Matteawan. The prisoner stood, with shoulders braced against, before the jury as the verdict was announced, and he seemed possessed with a strong desire to extend to the twelve men his thanks. He bowed to the foreman, bending his body in the middle, and he bowed to Naething, the second juror. He bowed to the third and the fourth jurors, and the fifth and the sixth, but none of them looked at him. Instead they extended their hands to Martin W. Littleton, congratulating him on his work and passed on out of the jury box to shake the hand of the prisoner's wife.

All the while the prisoner stood bowing his thanks to the jurors. Not a juror lifted his eyes to the fallow-faced man over whose fate he had wrestled for twenty-five hours. The last man of the twelve contented himself with a word of appreciation to the chief counsel of the defense and a word of congratulation to Evelyn Nesbit Thaw.

The jurors had been ordered to the jury room at 11:40 A. M. Friday. From that hour until 12:40 yesterday afternoon they were away from the court and the public, weighing in the balance the claim of Thaw to the life of White. These twelve men cast fourteen ballots. The first ballot cast showed eight for acquittal on the ground of insanity and four for a verdict of murder in the first degree. Two jurors changed to a verdict of acquittal during Friday night, and the vote then stood ten to two.

The jurors were taken up to the Hotel Knickerbocker yesterday morning for breakfast, and afterward another juror changed his vote to not guilty. This left only one of the twelve sticking for a verdict of guilty of murder in some degree. Five minutes before word was sent to Justice Dowling that a verdict had been

Continued on Page 4.

THAW INSANE; IN MATTEAWAN

Continued from Page 1.

agreed upon this twelfth juror switched over, and the verdict of acquittal on the ground of insanity was agreed upon.

Veteran Got the Table.

During the night of physical torture pending the reaching of a verdict the jurors, with one accord, agreed to give the use of the table in the room to Juror Cary, the senior member of the body. He is a grizzled veteran of the civil war—on the Confederate side. He stretched out on the hard boards and slept from 2 until 4 o'clock in the morning and then got up and resumed the discussion of the case.

All morning Thaw fidgeted about in the prisoners' pen of the courtroom. His wife did her best to calm him. He had packed up his pictures, clippings of newspapers, and letters preparatory to walking out a free man. The thought of being held a prisoner any longer was far from his mind. When he was told that the jury had reached a verdict he seemed dazed and hardly able to comprehend what it meant to him. He walked into the courtroom with a Deputy Sheriff behind him. He seemed to walk as by effort. He smiled at his wife with a twitching of the corners of his lips and sat down beside his counsel.

Clerk Penney arose and asked whether the jury had found a verdict. Foreman Gremmels replied that the jury had, and announced in clear tones that the verdict was not guilty on the ground of insanity at the time of the killing of White.

Evelyn Nesbit Thaw was the only woman of the family in the courtroom at the time. She leaned far over in her chair, and for the first time since the trial of her husband she showed genuine anxiety in her face. Her usually smooth, babyish face was seamed from the curve of the nostrils to the chin. She looked a woman suddenly aged.

Thaw, who had been standing facing the foreman of the jury, sat down and shelled his left ear to catch what the Judge would say. He seemed to anticipate the order sending him to Matteawan. He and his wife listened keenly to every word that came from the bench.

Despite the fact that Justice Dowling had given a foreword to those in the courtroom that there should be no demonstration when the verdict was announced, it had hardly been given when one spectator began to clap his hands vigorously. Nobody else applauded, and it was an easy matter to find the offender.

Cost Pell \$25 to Applaud.

"Who is that person?" demanded Justice Dowling of Capt. Lynch, in charge of the court squad.

"Here is the man," was the reply, and the offender was taken up to the bench. The captive said he was Theodore Roosevelt Pell, named after the President but not a relative. He said he had just dropped in to hear the verdict. Justice Dowling fined him \$25, and the Sheriff declined to take his check. He was compelled to remain in the Sheriff's office until a friend arrived with the cash to pay his fine.

This incident disposed of, Justice Dowling said:

"The only testimony in this case upon which a verdict of insanity could be based was to the effect that the defendant was suffering from a manic-depressive form of mental derangement. This testimony and the diagnosis of the form of insanity were based upon prior outbreaks of the defendant as testified to by witnesses from London, Monte Carlo, Rome, Paris, and Albany.

"It also appears from the testimony, and the court was careful to inquire into this, that recurrences of the periods of mania are reasonably certain. In the depressive stage there is danger of a recurrence of suicidal tendency.

"There has been no testimony adduced here to show that a person suffering from this form of insanity ever can be cured. It appears, however, that the person suffering from this form of insanity, during the maniacal form of the disease, is likely to commit dangerous assaults or murder.

"Therefore, upon all the evidence in this case, the court deems that to allow the defendant to go at large would be dangerous to the community and to the public safety. The decision of the court is that the defendant shall not now be discharged, but, being in custody, shall be so held and committed with all dispatch to the State Hospital for the Criminal Insane at Matteawan. The Sheriff of the county is directed to take custody of the defendant and deliver him to the State authorities at Matteawan."

Thaw Demanded a Writ.

As Justice Dowling was thus committing Thaw to Matteawan, he leaned over Lawyer O'Reilly's shoulder and whispered to Mr. Littleton, his chief counsel. Mr. Littleton asked that the court grant a stay of his order until he could confer with his client. District Attorney Jerome, who seemed well satisfied with the verdict, made no objection, and Justice Dowling granted the counsel for the defense a stay of two hours.

Mrs. William Thaw, the prisoner's mother, had been notified of the verdict by telephone. She and Mr. Littleton then had a long conference. Thaw was for an immediate application for a writ of habeas corpus. The form of the writ had been drawn up the day before by Lawyer Peabody. Everything was in readiness for a fight against Matteawan—all, except Mr. Littleton. The chief counsel for the defense believes Thaw in such mental condition that Matteawan is better for him than Broadway, and the carefully prepared application for a writ of habeas corpus was not used.

Mr. Littleton asked Justice Dowling to

be allowed to except to his order committing his client to Matteawan, but he admitted at the same time that he did not know whether he had ground for the exception. He said he believed that the statute which permitted the Justice to send Thaw to Matteawan was unconstitutional, and he desired to have his objection placed in the record.

Mr. Jerome did not seem to think that this objection amounted to much in point of law and raised no question.

The final disposition of the Thaw case is to come when application is made under a writ of habeas corpus for his release from Matteawan. When this is made a court of the State will appoint a commission which will pass on his sanity. His form of mental disease—paranoia—is said to be of such nature that cunning in deceit as to the state of his mind is highly developed. His own witnesses have described his mental condition as such that an outbreak may be expected, and it is believed that, for the sake of the community, Mr. Jerome will fight any effort that may be made to get him out of Matteawan. Mr. Littleton's failure to resort at once to habeas corpus proceedings is taken as an indication of his desire to end his own connection with the case and accept the verdict.

Mrs. William Thaw, the mother, and the other members of the Thaw family hope eventually to see the prisoner put in some private asylum and held there for the rest of his life.

Verdict Pleased His Wife.

Evelyn Nesbit Thaw seemed pleased with the result. In her home, which she occupies by herself and without the companionship of any of the Thaw family, 446 Park Avenue, she said yesterday afternoon:

"Considering everything, the verdict was very satisfactory. It was all that we could expect under the circumstances. Further than that I must not say anything, for my lawyers have forbidden me to talk."

Her husband was not so calm. As he crossed the Bridge of Sighs to get his belongings and start on his journey to Matteawan he turned to his guard, Deputy Sheriff Bell, and asked who would go with him to the asylum.

"Another deputy and myself," replied Bell.

"No," exclaimed Thaw, angrily. "I only want you to go."

"It doesn't make any difference whom you want to go, young man," replied Bell, "for there will be another."

Thaw's hope of absolute freedom seemed based on the application for a writ of habeas corpus. He expected that an application for it would be made during the afternoon and that it would keep him out of Matteawan. When he found that Mr. Littleton would not make the application he became very angry.

"I will not go to Matteawan; I don't want to go there," he exclaimed.

"You've got to go," responded Mr. Littleton. "There's such a thing as public sentiment in this town, and you can't have cold water one day and warm the next."

"Where did you expect to be sent?" asked Lawyer O'Reilly. "Rector's or Martin's?"

Thaw was subdued, and left with his wife in the Sheriff's office.

By 4 o'clock he had packed his belongings, and in a few minutes he was in his wife's electric brougham, speeding for the Grand Central Station. There the prisoner, in charge of two deputies, took the 4:54 train for Matteawan. Lawyers O'Reilly and Peabody accompanied him to the asylum. Evelyn Thaw said goodbye with no show of regret. The parting between mother and son occurred Friday afternoon.

Martin W. Littleton said last night that he thought the verdict a righteous one. He would not discuss the matter of probable future effort to get Thaw out of Matteawan.